



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SEABROOK EMPLOYEES ASSOCIATION *

*

Complainant *

*

v. *

CASE NO. M-0575:7

*

TOWN OF SEABROOK *

DECISION NO. 87-05

*

Respondent *

APPEARANCES

Seabrook Employees Association Representative

Cora Stockbridge, President

Town of Seabrook Representative

Gary W. Holmes, Esq., Counsel

BACKGROUND

The Seabrook Employees Association ("Association") filed improper practice charges against the Town of Seabrook ("Town") on September 5, 1986. The Association alleged violations of RSA 273-A:5, I (a) and (b) in that the Town implemented substantial changes in working conditions of employees without negotiating with the Association. The Association specifically charged that the Town had violated past practice by refusing to grant clothing allowances to Highway Department Employees who are part of bargaining unit A, represented by the Association. The Association filed a grievance on this matter and the Selectmen denied the grievance.

In addition, the Association alleged that, during negotiations, Selectman Brown had gone directly to employees on a matter under negotiation constituting an unfair labor practice violating RSA 273-A:5, I, (a), (b) and (e).

The Town answered that it denied any past practice with respect to a "clothing allowance". The Town claimed that the grievance was denied because it was improperly presented. The Town denied that Selectman Brown had in any way conducted negotiations with Highway Department employees. The Town also stated that it was unaware of any complaint against Mr. Brown for discussing things with Highway Department employees and that the Selectmen should have been told before filing a complaint with the PELRB.

A hearing was held at the Seabrook Town Offices on November 20, 1986 and November 25, 1986, with all parties represented. The hearing was conducted in two parts and will be dealt with here in two parts.

PART I: FINDINGS OF FACT

Issue is past practice of clothing purchase.

1. The Association presented evidence of clothing purchases for specific employees of the Highway Department for the years 1983 thru 1985 (Association Exhibits #2-5) clearly establishing a past practice.
2. The Town admitted they had carried out such a practice but argued that the practice related to "safety equipment".
3. The Town admitted that it refused to agree with the Association in their proposal for a "clothing allowance" and also denied a grievance for a similar allowance.
4. Town witness established that a line item in the Town maintenance budget has existed for "clothing-safety equipment" since 1982; timing of purchases and amounts varied year to year.
5. Town did purchase clothing in 1986: steel tip boots in August, clothing in October.
6. The Board of Selectmen had first refused to agree to a clothing allowance and later changed their mind, after one had researched the issue.

RULINGS OF LAW

The clothing allowance was given to the employees of the department hence the issue is moot. The past practice was clearly established, however, and is therefore a condition of employment subject to negotiation between the parties.

DECISION (PART I)

The charge against the Town for not providing a clothing allowance is dismissed.

PART II: FINDINGS OF FACT

Issue is interference with rights of union to be exclusive representative in negotiations.

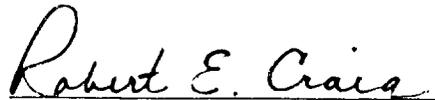
1. Selectman Brown was not convinced that any clothing allowance existed when Association and Town were bargaining over such.
2. Selectman Brown went to the "shed" and spoke to the employees, and particularly the foreman, about the practice of clothing allowance and also about "350.00 asking for" (the Association's proposal on clothing allowances).
3. Selectman Brown knew that the employees he spoke to were part of the bargaining unit represented by the Association in current negotiations.

RULINGS OF LAW

However unintentional, Selectman Brown's communication about matters in current negotiations with employees in the bargaining unit constitutes an inadmissible breach of the Association's rights to represent those employees exclusively (See RSA 273-A:11).

DECISION (PART II)

1. The Town is guilty of an unfair labor practice under RSA 273-A:5, I, (a) and (b), and
2. is hereby ordered to cease and desist communicating with bargaining unit employees about matters in current negotiations and communicate with the exclusive representative about such matters.
3. For the record, the Association does not have the obligation to notify the Town of its intention to file an unfair labor practice complaint.


ROBERT E. CRAIG, CHAIRMAN

Signed this 2nd day of February, 1987.

By unanimous vote. Chairman Robert E. Craig presiding, members James Anderson, Richard Molan, Seymour Osman and Richard Roulx present and voting. Also present Evelyn C. LeBrun, Executive Director.